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## **HIGH COURT OF JUDICATURE AT ALLAHABAD**

**AFR**

**Court No. 9**

**Special Appeal No. 766 of 2008**

**Surendra Singh**

**Vs**

**State of U.P. and others**

**Hon'ble V.M. Sahai,J.**

**Hon'ble Sanjay Misra,J.**

This Special Appeal has been preferred against the order dated 18.8.2008 passed by learned Single Judge in writ petition No. 41740 of 2008 Committee of Management Vs State of U.P. and others. By the order dated 18.8.2008 the learned Single Judge has required the State respondents to file counter affidavit and has issued notice to the respondent No. 6 and 7 and further till the next date of listing it has been provided that no action shall be taken against the petitioner under the Right to Information Act 2005.

Learned counsel for the petitioner/respondent in this Special Appeal has been duly served with notice of this appeal on 25.9.2008.

Learned counsel for the appellant has assailed the order on the ground that the controversy as to whether the Committee of Management of an Educational Institution or its members can be required to give information on an application made under the Right to Information Act 2005 has been considered by a Division Bench of this court in the case of Committee of Management Ismail Girls National Inter College, Meerut Vs State of U.P. and others 2008(8) ADJ 345. According to him the District Inspector of Schools, Ghazipur by the letter dated 4.8.2008 had forwarded the query made by the appellant from the Committee of Management of the institution known as Shanti Niketan Inter College, Barahi, District Ghazipur for replying and furnishing information point wise to the appellant. The Committee of Management preferred the writ petition against the said letter of the District Inspector of Schools wherein the impugned order was passed. The appellant submits that the Committee of Management of the institution is covered under the definition of Section 2(h) of the Right to Information Act and is a public authority since the scheme of administration of the institution has been framed under Section 16-A of the Intermediate Education Act and the management and functions are clearly regulated by the provisions of Intermediate Education Act 1921 and Regulations framed thereunder. The institution is engaged in providing education to the society and is receiving grant in aid from the State for payment of salary to the entire teaching staff, non -teaching staff and other employees. It has been stated that information sought by the appellant is not exempted under Section 8(j) of the Act inasmuch as the institution is engaged in public activity and it cannot be said that it would be an invasion of privacy of any individual of the Committee of Management or other. According to him the information sought by the appellant was relating to the appointment/educational certificates of six Assistant teachers named therein and employed in the institution which cannot be brought within the exemption of Section 8(j) of the Right to Information Act.

We have considered the submission of learned counsel for the appellant and find that in so far as the Committee of Management of the private managed institutions are concerned they are covered under the definition of Section 2(h) of the Right to Information Act being public authority as has been held by a Division Bench of this court in the case of Committee of Management Ismail Girls National Inter College, Meerut Vs State of U.P. and others (supra). The appellant is right in saying that the information sought by him from the Committee of Management was bound to be given as per provisions of Right to Information Act 2005 and the District Inspector of Schools had rightly required the Committee of Management of the Shanti Niketan Inter College, to provide such information to the petitioner.

In so far as the exemption from disclosure of information as provided in Section 8 of the Act is concerned the provisions of Section 8(j) exempts information which relates to personal information the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual. The provisions of Sub Clause (J) of Section 8 of the Act also provides that the Information Officer or appellant authority as the case may be can record his satisfaction for disclosure of such information in the larger public interest. The provisions therefore has been enacted by the legislature for non disclosure of information only when there is no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual. However, it has further been provided in the Sub Section that such information can be disclosed if the Officer is satisfied that the larger public interest justifies the disclosure of such information.

Section 11 of the Act relates to Third party Information. Third party has been defined under Section 2(n) to mean a person other than the citizen making a request for information and includes a public authority. It is only when the third party treats the information required to be disclosed as confidential that the authority is required to give a written notice to such third party of the request. In case such information is not held as confidential no written notice is required to be given. Such provisions in Section 11 appear to be for the purpose of preventing the Act from becoming a tool in the hands of a busy body only for the purpose of settling personal scores or other oblique motives.

The information sought by the appellant in the present case relates to six Assistant teachers of the institution in question and the educational certificates submitted by them for being appointed as Assistant teachers. Since the institution in question and the Committee of Management managing the institution is a public authority as defined in the Act the Assistant teachers working therein are also performing the duties of imparting education to the society. Consequently when the Assistant teachers are performing public activity the information sought by the applicant is with relation to such activity and it cannot be said that the teaching work done by the six Assistant teachers has no relationship to any public activity or interest. The information sought by the appellant cannot also be said to cause unwarranted invasion of the privacy of such Assistant teachers in the institution inasmuch as their educational certificates are matter of record of the institution on the strength of which they have obtained appointments as Assistant teachers and are performing public activities by imparting education in the institution. By no stretch of imagination can it be held that the information regarding their appointment and educational certificates would be an unwarranted invasion of their privacy. Their educational qualifications are not privy to them but are records available with the institution which is a public authority within the meaning of the Act.

The information sought in the present case cannot also be brought within the meaning of being confidential to the third party. The records of educational certificates of the six Assistant Teachers are available with the public authority and have relationship to their performing their duties as such. They were appointed by virtue of their qualifications and hence such qualifications have direct relationship to their duties. As such the exemption from disclosure of information under Section 8(j) is not available in the present case.

Consequently the District Inspector of Schools has rightly required the Committee of Management of the institution to divulge the information regarding appointment and educational certificates of the six Assistant teachers named therein who are working in the Shanti Niketan Inter College, Barahi, District Ghazipur which is a duly recognised institution by the Board of High School and Intermediate and it receives grant in aid from the State. The provisions of the Payment of Salaries Act 1971 are also applicable on the institution which is a clear stand taken by the Committee of Management in paragraph 3 of the writ petition. Consequently even the exemption under Section 8(j) of the Right to Information Act cannot come to the help of the Committee of Management/institution.

For the aforesaid reasons we find that the interim order passed by the learned Single Judge preventing

such information to be elicited from the Committee of Management of Shanti Niketan Inter College, Barahi, District Ghazipur requires to be set aside and since the writ petition had been filed for quashing the order dated 4.8.2008 passed by the District Inspector of Schools requiring the information to be given under the Right to Information Act 2005 the writ petition itself stands decided by this order. Since we have held that the information is to be divulged/given and the third parties or the institution or its Committee of Management cannot claim any exemption from disclosure of information sought in the present case under the Act, the writ petition itself having no merit shall stand dismissed. In the result the Special Appeal succeeds, the interim order dated 18.8.2008 is set aside and the writ petition itself stands dismissed.

No order is passed as to costs.

14.11.08

Pravin